

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **VICE CHAIRMAN MIKE SPRAGUE**, on March 28, 2003  
at 3:00 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John Cobb, Chairman (R)  
Sen. Mike Sprague, Vice Chairman (R)  
Sen. Kelly Gebhardt (R)  
Sen. Carolyn Squires (D)  
Sen. Mike Wheat (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Pat Murdo, Legislative Branch  
Lisa Gallagher, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

**Committee Business Summary:**

Hearing & Date Posted: none  
Executive Action: HB 431; HB 523; HB 689; HB 599

**EXECUTIVE ACTION ON HB 431**

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.4}***

**Pat Murdo** handed out to the Committee exhibits 1, 2 and 3.  
Exhibit 1 is an amendment that she explained.

**EXHIBIT(sts66a01)**

Exhibit 2 is a letter from Ralph DeCunzo.

**EXHIBIT(sts66a02)**

Exhibit 3 is a copy of a page from the Montana Code Annotated.

**EXHIBIT(sts66a03)**

**SEN. WHEAT** asked **Tom Butler, Legal Counsel for the Department of Natural Resources and Conservation**, if this sale would go forth without this legislation. **Tom Butler** said, "Yes, HB 431 just gives the legal preference to Whitefish."

**SEN. WHEAT** asked **Tom Butler** why can't giving them the option to purchase this land be done in a contract. **Tom Butler** said that all state lands need to be held at the state auction.

**SEN. WHEAT** asked **Tom Butler** if the reason for this bill is so that the city of Whitefish will get preference. **Tom Butler** said, "Yes."

**SEN. SPRAGUE** asked **Tom Butler** if this bill applies to all local governments if the state decides to sell land. **Tom Butler** said that this would give local governments the right to purchase the land first.

**SEN. SPRAGUE** asked **Tom Butler** if they have to put it in the contract. **Tom Butler** said, "That is correct."

**SEN. WHEAT** said that this bill only relates to the armory in Whitefish. They currently don't have the right of first refusal and they are willing to pay the fair market value. He said that he is very sympathetic to the situation in Whitefish because they have the same situation down in Bozeman.

**SEN. SPRAGUE** asked **Tom Butler** how the sale goes. **Tom Butler** said that the procedure for the sale of state land is set out in title 77 and the requirements for the publishing of the sale. The sale must be held at the courthouse by a public auction.

**Motion:** **SEN. SPRAGUE** moved that HB 431 BE CONCURRED IN.

**Discussion:**

*{Tape: 1; Side: A; Approx. Time Counter: 12.2 - 12.6}*

**Pat Murdo** explained to the Committee the amendment.

**SEN. WHEAT** asked **Tom Butler** if he cared if this bill went through. **Tom Butler** said that the DNRC is only an informational witness and that they are totally noncommittal.

**SEN. SPRAGUE** asked **Pat Murdo** what is the relevance of \$1. **Pat Murdo** said that it is only so they can distinguish between land that was sold that day.

**SEN. GEBHARDT** said that this bill is only giving them the right of first refusal and there is nothing wrong with leaving the Whitefish part out.

**Vote:** Motion that HB 431 BE CONCURRED IN carried 5-0, by voice vote.

**SEN. DEPRATU** will carry HB 431 on the Senate floor.

**EXECUTIVE ACTION ON HB 523**

**Motion:** SEN. SPRAGUE moved that HB 523 BE CONCURRED IN.

**Discussion:**

**REP. BALYEAT** explained to the Committee the amendments to this bill.

**EXHIBIT**(sts66a04)

**Motion/Vote:** SEN. SPRAGUE moved that HB 431 BE AMENDED. Motion carried 5-0, by voice vote.

**Motion:** SEN. SPRAGUE moved that HB 523 BE CONCURRED IN AS AMENDED.

**Discussion:**

**SEN. GEBHARDT** said that he made a note on this bill in reference to the constitutionality of this bill.

**REP. BALYEAT** said that he talked to all of the opponents and they were okay with the amendments.

**John Shontz, Montana Newspapers,** said that he thinks that this bill prohibits free speech, and that it is against the constitution. He said that he is not convinced that it is constitutional.

**SEN. WHEAT** said that you can not impair someone's personal rights to express themselves and that is the concern with this bill.

**REP. BALYEAT** said that in his opinion this bill is not unconstitutional. There is a law in Arizona that says they need a 24 hour prior notice, and that is unconstitutional, but that has been left out of the bill. The scope has been so narrowed in this bill that there will never be a plaintiff.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.2}*

**SEN. SQUIRES** asked **REP. BALLYEAT** if this happened to him would he spend the money to go all the way to the U.S. Supreme Court.

**REP. BALLYEAT** said that what he is saying is the exact opposite.

**SEN. WHEAT** said that the point that John Shontz is making is that the Montana Constitution and the U.S. Constitution are different.

**SEN. GEBHARDT** said that it is just a notice that you have to give and that does not impair free speech.

**SEN. WHEAT** asked **REP. BALLYEAT** if he is engaged in a campaign and it is in the last ten days and he runs an ad in the paper and on the television, what happens if he misrepresents his opponent. **REP. BALLYEAT** said that what this bill does is gives the candidate an early notice, and gives the opportunity to respond at the earliest practical time, and that is all this bill does.

**REP. WHEAT** asked **REP. BALLYEAT** why he should give his opponent what he is saying about him, this will take away my advantage.

**REP. BALLYEAT** said that it might help you, and if you are running a clean campaign then you have nothing to worry about.

**Vote:** Motion that HB 523 BE CONCURRED IN AS AMENDED carried 3-2 with **SENS. COBB** and **SQUIRES** voting no, by roll call vote.

**SEN. BOHLINGER** will carry HB 523 on the Senate floor.

#### EXECUTIVE ACTION ON HB 689

**Motion:** **SEN. SPRAGUE** moved that HB 689 BE CONCURRED IN.

**Motion:** **SEN. WHEAT** moved that HB 689 BE AMENDED.

#### Discussion:

*{Tape: 1; Side: B; Approx. Time Counter: 12 - 16.6}*

**Pat Murdo** explained **SEN. WHEAT'S** amendments to the Committee.

**EXHIBIT** (sts66a05)

**Pat Murdo** explained to the Committee exhibit 6, a gray bill from HB 689.

**EXHIBIT** (sts66a06)

**SEN. SPRAGUE** asked **Pat Murdo** if he comes to the legislature to help his business, is he a lobbyist. **Pat Murdo** said you are if you spend \$2150.

**SEN. SPRAGUE** said that he is trying to make sure there are no unintentional consequences here.

**SEN. GEBHARDT** said that you have to spend \$2150, and there is an issue if you include travel after you hit the \$2150 mark, you have to count all the money you spend from there on.

**SEN. WHEAT** said that his amendment is trying to make a bad bill better.

**Vote:** Motion that HB 689 BE AMENDED carried 5-0, by voice vote.

**Motion:** SEN. GEBHARDT moved that HB 689 BE AMENDED.

**Discussion:**

**Pat Murdo** explained the amendment to the Committee.  
**EXHIBIT**(sts66a07)

**Vote:** Motion that HB 689 BE AMENDED carried 5-0, by voice vote.

**Motion/Vote:** SEN. SPRAGUE moved that HB 689 BE CONCURRED IN AS AMENDED. Motion carried 3-2 with SENS. SQUIRES and WHEAT voting no, by voice vote.

**SEN. GEBHARDT** will carry HB 689 on the Senate floor.

**EXECUTIVE ACTION ON HB 599**

**Motion/Vote:** SEN. WHEAT moved that HB 599 BE INDEFINITELY POSTPONED. Motion carried 5-0, by voice vote.

**ADJOURNMENT**

Adjournment: 4:00 P.M.

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SEN. JOHN COBB, Chairman

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LISA GALLAGHER, Secretary

JC/LG

**EXHIBIT (sts66aad)**